

Union Calendar No.

116TH CONGRESS
2^D SESSION

H. R. 451

[Report No. 116-]

To repeal the section of the Middle Class Tax Relief and Job Creation Act of 2012 that requires the Federal Communications Commission to reallocate and auction the T-Band spectrum.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 10, 2019

Mr. ENGEL (for himself, Mr. ZELDIN, Mr. GREEN of Texas, and Mr. KING of New York) introduced the following bill; which was referred to the Committee on Energy and Commerce

JULY --, 2020

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on January 10, 2019]

A BILL

To repeal the section of the Middle Class Tax Relief and Job Creation Act of 2012 that requires the Federal Communications Commission to reallocate and auction the T-Band spectrum.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Don’t Break Up the*
5 *T-Band Act of 2020”.*

6 **SEC. 2. REPEAL OF REQUIREMENT TO REALLOCATE AND**
7 **AUCTION T-BAND SPECTRUM.**

8 *(a) REPEAL.—Section 6103 of the Middle Class Tax*
9 *Relief and Job Creation Act of 2012 (47 U.S.C. 1413) is*
10 *repealed.*

11 *(b) CLERICAL AMENDMENT.—The table of contents in*
12 *section 1(b) of such Act is amended by striking the item*
13 *relating to section 6103.*

14 **SEC. 3. CLARIFYING ACCEPTABLE 9–1–1 OBLIGATIONS OR**
15 **EXPENDITURES.**

16 *Section 6 of the Wireless Communications and Public*
17 *Safety Act of 1999 (47 U.S.C. 615a–1) is amended—*

18 *(1) in subsection (f)—*

19 *(A) in paragraph (1), by striking “as speci-*
20 *fied in the provision of State or local law adopt-*
21 *ing the fee or charge” and inserting “consistent*
22 *with the purposes and functions designated in*
23 *the final rules issued under paragraph (3) as*
24 *purposes and functions for which the obligation*

1 *or expenditure of such a fee or charge is accept-*
2 *able”;*

3 *(B) in paragraph (2), by striking “any*
4 *purpose other than the purpose for which any*
5 *such fees or charges are specified” and inserting*
6 *“any purpose or function other than the pur-*
7 *poses and functions designated in the final rules*
8 *issued under paragraph (3) as purposes and*
9 *functions for which the obligation or expenditure*
10 *of any such fees or charges is acceptable”; and*

11 *(C) by adding at the end the following:*

12 *“(3) ACCEPTABLE OBLIGATIONS OR EXPENDI-*
13 *TURES.—*

14 *“(A) RULES REQUIRED.—In order to pre-*
15 *vent diversion of 9–1–1 fees or charges, the Com-*
16 *mission shall, not later than 180 days after the*
17 *date of the enactment of this paragraph, issue*
18 *final rules designating purposes and functions*
19 *for which the obligation or expenditure of 9–1–*
20 *1 fees or charges, by any State or taxing juris-*
21 *isdiction authorized to impose such a fee or*
22 *charge, is acceptable.*

23 *“(B) PURPOSES AND FUNCTIONS.—The pur-*
24 *poses and functions designated under subpara-*
25 *graph (A) shall be limited to the support and*

1 *implementation of 9–1–1 services provided by or*
2 *in the State or taxing jurisdiction imposing the*
3 *fee or charge and operational expenses of public*
4 *safety answering points within such State or*
5 *taxing jurisdiction. In designating such purposes*
6 *and functions, the Commission shall consider the*
7 *purposes and functions that States and taxing*
8 *jurisdictions specify as the intended purposes*
9 *and functions for the 9–1–1 fees or charges of*
10 *such States and taxing jurisdictions, and deter-*
11 *mine whether such purposes and functions di-*
12 *rectly support providing 9–1–1 services.*

13 “(C) *CONSULTATION REQUIRED.*—*The Com-*
14 *mission shall consult with public safety organi-*
15 *zations and States and taxing jurisdictions as*
16 *part of any proceeding under this paragraph.*

17 “(D) *DEFINITIONS.*—*In this paragraph:*

18 “(i) *9–1–1 FEE OR CHARGE.*—*The*
19 *term ‘9–1–1 fee or charge’ means a fee or*
20 *charge applicable to commercial mobile*
21 *services or IP-enabled voice services specifi-*
22 *cally designated by a State or taxing juris-*
23 *isdiction for the support or implementation of*
24 *9–1–1 services.*

1 “(ii) 9–1–1 SERVICES.—The term ‘9–
2 1–1 services’ has the meaning given such
3 term in section 158(e) of the National Tele-
4 communications and Information Adminis-
5 tration Organization Act (47 U.S.C.
6 942(e)).

7 “(iii) STATE OR TAXING JURISDIC-
8 TION.—The term ‘State or taxing jurisdic-
9 tion’ means a State, political subdivision
10 thereof, Indian Tribe, or village or regional
11 corporation serving a region established
12 pursuant to the Alaska Native Claims Set-
13 tlement Act (43 U.S.C. 1601 et seq.).

14 “(4) PARTICIPATION.—If a State or taxing juris-
15 diction (as defined in paragraph (3)(D)) receives a
16 grant under section 158 of the National Tele-
17 communications and Information Administration Or-
18 ganization Act (47 U.S.C. 942) after the date of the
19 enactment of this paragraph, such State or taxing ju-
20 risdiction shall, as a condition of receiving such
21 grant, provide the information requested by the Com-
22 mission to prepare the report required by paragraph
23 (2).

24 “(5) PETITION REGARDING ADDITIONAL PUR-
25 POSES AND FUNCTIONS.—

1 “(A) *IN GENERAL.*—A State or taxing juris-
2 diction (as defined in paragraph (3)(D)) may
3 submit to the Commission a petition for a deter-
4 mination that an obligation or expenditure of a
5 9–1–1 fee or charge (as defined in such para-
6 graph) by such State or taxing jurisdiction for
7 a purpose or function other than a purpose or
8 function designated under paragraph (3)(A)
9 should be treated as such a purpose or function.
10 If the Commission finds that the State or taxing
11 jurisdiction has provided sufficient documenta-
12 tion to make the demonstration described in sub-
13 paragraph (B), the Commission shall grant such
14 petition.

15 “(B) *DEMONSTRATION DESCRIBED.*—The
16 demonstration described in this subparagraph is
17 a demonstration that the purpose or function—

18 “(i) supports public safety answering
19 point functions or operations; or

20 “(ii) has a direct impact on the ability
21 of a public safety answering point to—

22 “(I) receive or respond to 9–1–1
23 calls; or

24 “(II) dispatch emergency respond-
25 ers.”; and

1 (2) *by adding at the end the following:*

2 “(j) *SEVERABILITY CLAUSE.—If any provision of this*
3 *section or the application thereof to any person or cir-*
4 *cumstance is held invalid, the remainder of this section and*
5 *the application of such provision to other persons or cir-*
6 *cumstances shall not be affected thereby.”.*

7 **SEC. 4. PROHIBITION ON 9–1–1 FEE OR CHARGE DIVERSION.**

8 (a) *IN GENERAL.—If the Commission obtains evidence*
9 *that suggests the diversion by a State or taxing jurisdiction*
10 *of 9–1–1 fees or charges, the Commission shall submit such*
11 *information, including any information regarding the im-*
12 *pect of any underfunding of 9–1–1 services in the State*
13 *or taxing jurisdiction, to the interagency strike force estab-*
14 *lished under subsection (c).*

15 (b) *REPORT TO CONGRESS.—Beginning with the first*
16 *report under section 6(f)(2) of the Wireless Communications*
17 *and Public Safety Act of 1999 (47 U.S.C. 615a–1(f)(2))*
18 *that is required to be submitted after the date that is 1 year*
19 *after the date of the enactment of this Act, the Commission*
20 *shall include in each report required under such section all*
21 *evidence that suggests the diversion by a State or taxing*
22 *jurisdiction of 9–1–1 fees or charges, including any infor-*
23 *mation regarding the impact of any underfunding of 9–*
24 *1–1 services in the State or taxing jurisdiction.*

1 (c) *INTERAGENCY STRIKE FORCE TO END 9–1–1 FEE*
2 *OR CHARGE DIVERSION.*—

3 (1) *ESTABLISHMENT.*—Not later than 180 days
4 after the date of the enactment of this Act, the Com-
5 mission shall establish an interagency strike force to
6 study how the Federal Government can most expedi-
7 tiously end diversion by a State or taxing jurisdiction
8 of 9–1–1 fees or charges. Such interagency strike force
9 shall be known as the “Ending 9–1–1 Fee Diversion
10 Now Strike Force” (in this section referred to as the
11 “Strike Force”).

12 (2) *DUTIES.*—In carrying out the study under
13 paragraph (1), the Strike Force shall—

14 (A) determine the effectiveness of any Fed-
15 eral laws, including regulations, policies, and
16 practices, or budgetary or jurisdictional con-
17 straints regarding how the Federal Government
18 can most expeditiously end diversion by a State
19 or taxing jurisdiction of 9–1–1 fees or charges;

20 (B) consider whether criminal penalties
21 would further prevent diversion by a State or
22 taxing jurisdiction of 9–1–1 fees or charges; and

23 (C) determine the impacts of diversion by a
24 State or taxing jurisdiction of 9–1–1 fees or
25 charges.

1 (3) *MEMBERS.—The Strike Force shall be com-*
2 *posed of such representatives of Federal departments*
3 *and agencies as the Commission considers appro-*
4 *priate, in addition to—*

5 (A) *State attorneys general;*

6 (B) *States or taxing jurisdictions found not*
7 *to be engaging in diversion of 9–1–1 fees or*
8 *charges;*

9 (C) *States or taxing jurisdictions trying to*
10 *stop the diversion of 9–1–1 fees or charges;*

11 (D) *State 9–1–1 administrators;*

12 (E) *public safety organizations;*

13 (F) *groups representing the public and con-*
14 *sumers; and*

15 (G) *groups representing public safety an-*
16 *swering point professionals.*

17 (4) *REPORT TO CONGRESS.—Not later than 270*
18 *days after the date of the enactment of this Act, the*
19 *Strike Force shall publish on the website of the Com-*
20 *mission and submit to the Committee on Energy and*
21 *Commerce of the House of Representatives and the*
22 *Committee on Commerce, Science, and Transpor-*
23 *tation of the Senate a report on the findings of the*
24 *study under this subsection, including—*

1 (A) any recommendations regarding how to
2 most expeditiously end the diversion by a State
3 or taxing jurisdiction of 9–1–1 fees or charges,
4 including actions that can be taken by Federal
5 departments and agencies and appropriate
6 changes to law or regulations; and

7 (B) a description of what progress, if any,
8 relevant Federal departments and agencies have
9 made in implementing the recommendations
10 under subparagraph (A).

11 (d) *FAILURE TO COMPLY*.—Notwithstanding any other
12 provision of law, any State or taxing jurisdiction identified
13 by the Commission in the report required under section
14 6(f)(2) of the Wireless Communications and Public Safety
15 Act of 1999 (47 U.S.C. 615a–1(f)(2)) as engaging in diver-
16 sion of 9–1–1 fees or charges shall be ineligible to partici-
17 pate or send a representative to serve on any committee,
18 panel, or council established under section 6205(a) of the
19 Middle Class Tax Relief and Job Creation Act of 2012 (47
20 U.S.C. 1425(a)) or any advisory committee established by
21 the Commission.

22 **SEC. 5. RULE OF CONSTRUCTION.**

23 Nothing in this Act, the Wireless Communications and
24 Public Safety Act of 1999 (Public Law 106–81), or the
25 Communications Act of 1934 (47 U.S.C. 151 et seq.) shall

1 *be construed to prevent a State or taxing jurisdiction from*
2 *requiring an annual audit of the books and records of a*
3 *provider of 9–1–1 services concerning the collection and re-*
4 *mittance of a 9–1–1 fee or charge.*

5 **SEC. 6. DEFINITIONS.**

6 *In this Act:*

7 (1) 9–1–1 FEE OR CHARGE.—*The term “9–1–1*
8 *fee or charge” has the meaning given such term in*
9 *subparagraph (D) of paragraph (3) of section 6(f) of*
10 *the Wireless Communications and Public Safety Act*
11 *of 1999, as added by this Act.*

12 (2) 9–1–1 SERVICES.—*The term “9–1–1 serv-*
13 *ices” has the meaning given such term in section*
14 *158(e) of the National Telecommunications and Infor-*
15 *mation Administration Organization Act (47 U.S.C.*
16 *942(e)).*

17 (3) COMMISSION.—*The term “Commission”*
18 *means the Federal Communications Commission.*

19 (4) DIVERSION.—*The term “diversion” means,*
20 *with respect to a 9–1–1 fee or charge, the obligation*
21 *or expenditure of such fee or charge for a purpose or*
22 *function other than the purposes and functions des-*
23 *ignated in the final rules issued under paragraph (3)*
24 *of section 6(f) of the Wireless Communications and*
25 *Public Safety Act of 1999, as added by this Act, as*

1 *purposes and functions for which the obligation or ex-*
2 *penditure of such a fee or charge is acceptable.*

3 (5) *STATE OR TAXING JURISDICTION.*—*The term*
4 *“State or taxing jurisdiction” has the meaning given*
5 *such term in subparagraph (D) of paragraph (3) of*
6 *section 6(f) of the Wireless Communications and Pub-*
7 *lic Safety Act of 1999, as added by this Act.*

Amend the title so as to read: “A bill to repeal the requirement to reallocate and auction the T-Band spectrum, to amend the Wireless Communications and Public Safety Act of 1999 to clarify acceptable 9–1–1 obligations or expenditures, and for other purposes.”.